

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

PATRICK EVANS, individually and on behalf of others similarly situated,)
Plaintiff,) Case No. 3:18-cv-00055
v.)
OLIVINA NAPA VALLEY, LLC,) JUDGE WILLIAM L. CAMPBELL
Defendant.) MAGISTRATE JUDGE ALISTAIR
) NEWBERN
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OLIVINA NAPA VALLEY, LLC,)
Plaintiff,) Case No. 3:17-cv-01281
v.) JUDGE WILLIAM L. CAMPBELL
PATRICK EVANS, individually and on) MAGISTRATE JUDGE ALISTAIR
behalf of others similarly situated,) NEWBERN
Defendant.)

JOINT MOTION TO CONSOLIDATE RELATED CASES

Pursuant to Federal Rule of Civil Procedure 42(a), Plaintiff Patrick Evans (“Evans”), individually and on behalf of others similarly situated, and Defendant Olivina Napa Valley, LLC (“Olivina”) (collectively, the “Parties”), respectfully move to the Court to consolidate *Patrick Evans v. Olivina Napa Valley, LLC*, Case No. 3:18-cv-00055 (M.D. Tenn. filed January 17, 2018), and *Olivina Napa Valley, LLC v. Patrick Evans*, Case No. 3:17-cv-01281 (M.D. Tenn. filed

September 19, 2017) for all purposes, including pretrial proceedings, discovery, and the trial and appeal of these matters. In support of the Motion, the Parties further state as follows:

On August 28, 2017, Jason Sultzzer of The Sultzzer Law Group sent a letter to Olivina Napa Valley, LLC, notifying Olivina of his intent file a class action lawsuit against them if a settlement could not be reached. Attached to the letter was a draft class action complaint to be filed in the United States District Court for the Southern District of New York on behalf of an unnamed and undisclosed Plaintiff, alleging that the “Naturally Pure” labeling of certain of Olivina’s personal care products is misleading or deceptive.

On September 19, 2017, Olivina filed an action for declaratory judgment against unidentified Plaintiff “John Doe” – later revealed through limited discovery to be Patrick Evans – in the United States District Court for the Middle District of Tennessee, at Nashville, captioned *Olivina Napa Valley, LLC v. Patrick Evans*, Case No. 3:17-cv-01281, asking the Court for a declaratory judgment that the advertising and labeling of Olivina’s products was not misleading or deceptive.

On November 6, 2017, Evans filed a class action lawsuit against Olivina in the United States District Court for the Eastern District of New York, captioned *Patrick Evans v. Olivina Napa Valley, LLC*, Case No. 1:17-cv-06450, alleging that the “Naturally Pure” labeling of certain of Olivina’s products is misleading or deceptive.

On December 14, 2017, Evans voluntarily dismissed his action in the Eastern District of New York.

On January 17, 2018, Evans refiled his class action complaint against Olivina in the United States District Court for the Middle District of Tennessee, captioned *Evans v. Olivina Napa Valley, LLC*, Case No. 3:17-cv-01281, alleging that the “Naturally Pure” labeling of certain of Olivina’s

products is misleading or deceptive. The two cases are now both pending in the United States District Court for the Middle District of Tennessee.

Consolidation of the two cases is appropriate, as these are related cases in which the Parties, witnesses, facts, and legal issues are identical. Both the Court's and the Parties' resources will be more efficiently utilized if the same Judge is assigned to both matters. In addition, both cases present common questions of law and fact, and consolidation of the cases will preserve judicial resources, promote the interests of fair and efficient administration, and avoid unnecessary duplicative efforts and avoid the risks of inconsistent rulings.

WHEREFORE, the Parties, through their counsel of record as evidenced below, respectfully move the Court to enter an Order consolidating *Patrick Evans v. Olivina Napa Valley, LLC*, Case No. 3:18-cv-00055 (M.D. Tenn. filed January 17, 2018) and *Olivina Napa Valley, LLC v. Patrick Evans*, Case No. 3:17-cv-01281 (M.D. Tenn. filed September 19, 2017) for all purposes, including pretrial proceedings, discovery, and the trial and appeal. The Parties further request that the caption of these consolidated actions be “*Patrick Evans v. Olivina Napa Valley, LLC*” and the files of this action shall be maintained under Case No. 3:18-cv-00055.

Respectfully submitted,

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